

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL HARPER,

Plaintiff,

v.

CDCR, *et. al.*,

Defendants.

Case No. 2:21-cv-00130-JDP (PC)

ORDER TO SHOW CAUSE WHY
PLAINTIFF'S APPLICATION TO
PROCEED *IN FORMA PAUPERIS*
SHOULDN'T BE DENIED BECAUSE OF
HIS STATUS AS A "THREE-STRIKER"

THIRTY-DAY DEADLINE

Plaintiff Daniel Harper is a state prisoner proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. He has filed an application to proceed in forma pauperis. ECF No. 2. No prisoner may proceed *in forma pauperis* in a civil action if they have previously had three actions dismissed as frivolous, malicious, or for failure to state a claim. 28 U.S.C. § 1915(g). Plaintiff has had three cases dismissed for failure to state a claim:

- (1) *Harper v. Wilcox*, No. 2:07-cv-1158-LKK-KJM at ECF Nos. 5 & 6;
- (2) *Harper v. Williams, et. al.*, No. 2:07-cv-02166-LKK-GGH at ECF Nos. 18 & 19; and
- (3) *Harper v. Morgan*, No. 2:08-cv-02526-GGH at ECF No. 15.

Plaintiff would still be entitled to proceed *in forma pauperis* if his complaint alleged that he is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g). It does not. Plaintiff names three defendants, the California Department of Corrections and Rehabilitation, social worker

Alexandria Tan, and correctional officer K. Ancheta. ECF No. 1 at 2. His allegations are difficult to understand and none of the defendants are mentioned therein. As best I can tell, his issues relate to disciplinary proceedings and his placement in administrative segregation. *Id.* at 3. Plaintiff does not allege that he is imminent danger.

Within thirty days, plaintiff should respond to this order and show why, in spite of his “three-striker” status, he should be allowed to proceed *in forma pauperis*. Alternatively, he may discharge this order by submitting the 402 dollar filing fee. If plaintiff’s response does not adequately justify being allowed to proceed *in forma pauperis*, I will recommend that his application be denied.

IT IS SO ORDERED.

Dated: March 3, 2021


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE